

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

NATHAN DAMASIUS)
)
Plaintiff)
)
vs.)
) (Removed from Lake County, IN
) Case No. 45D05-1902-CT-000259)
)
)
RONALD VANNESS; and)
RAWHIDE EXPRESS, INC.;)
and XTRA, LLC.)
)
Defendants)

NOTICE OF REMOVAL

Defendant, XTRA LLC, (“XTRA”), by and through its attorney, JAMES H. WHALEN, of LIPE LYONS MURPHY NAHRSTADT & PONTIKIS LTD., files this Notice of Removal, removing this action from the County of Lake Circuit Court in the State of Indiana to the United States District Court for the Northern District of Indiana, Hammond Division, and, in support thereof, states as follows:

1. This civil action, seeking damages for injuries the plaintiff NATHAN DAMASIUS allegedly suffered as a result of a motor vehicle accident on southbound Interstate 65 at or about mile marker 191 near Wolcott, White County, Indiana, was commenced against the Defendant, XTRA, on February 27, 2019. (See a copy of the plaintiff’s Complaint at Law attached hereto as Exhibit A). The Defendant, XTRA, now files this Notice of Removal.

2. A summons and a copy of the plaintiff's Complaint at Law filed in Lake County, Indiana was served upon CT Corporation, XTRA's registered agent for service of process, on March 11, 2019. (See Service of Process Transmittal form attached hereto as Exhibit B).

3. At the time the action was commenced the Plaintiff, NATHAN DAMASIU, was domiciled and resided at 9250 Drake Drive, Saint John, Indiana. As such, the Plaintiff is a citizen of the state of Indiana.

4. At the time the action was commenced the Defendant, RONALD VANNESS, was domiciled and resided at 1060 US Highway 42 SE, London, Ohio. As such, the Defendant is a citizen of the state of Ohio.

5. The defendant, XTRA is a limited liability company organized under the laws of the state of Maine and having its principal place of business at 7911 Forsyth Blvd., Suite 600, St. Louis, MO 63105. The sole member of XTRA is XTRA Companies, Inc. which is organized and incorporated under the laws of Delaware and having its principal place of business at 7911 Forsyth Blvd., Suite 600, St. Louis, MO 63105. As such, XTRA is a citizen of the states of Delaware, Maine and Missouri.

6. The defendant, RAWHIDE EXPRESS, INC., ("RAWHIDE"), is a corporation organized and incorporated under the laws of the state of Michigan and having its principal place of business at 895 Sigma Rd., Kalkaska, Michigan. As such, the defendant is a citizen of the state of Michigan.

7. The Plaintiff's Complaint sounds in negligence and seeks damages from XTRA for permanent, past, present, and future expenses for medical care, testing and treatment; past, present and future physical and mental pain and suffering; as well as lost wages and an inability to engage in normal daily activities for an indefinite period of time. (See Exhibit A). Counsel

for the plaintiff has indicated that the Plaintiff suffered a “major” concussion, as well as head, back and neck injuries. Based on the foregoing, the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

8. The Plaintiff’s Complaint alleges that the incident in question took place on southbound Interstate 65 at or about mile marker 191 near Wolcott, White County, Indiana. (See Exhibit A, ¶¶ 1, 5-6). The Plaintiff resides and filed his suit in Lake County, Indiana. Therefore, since a substantial part of the events giving rise to the Plaintiff’s claim occurred in the Northern District of Indiana, venue is proper in this judicial district (see 28 U.S.C. § 1391 (b)(2)) and filing in the Northern District is proper.

9. There is complete diversity of citizenship between the plaintiff and the defendant and the amount in controversy exceeds \$75,000. Therefore this is a civil action over which the United States District Court has original jurisdiction under 28 U.S.C. § 1332.

10. XTRA was served with the summons and complaint on March 11, 2019. Therefore this Notice of Removal has been filed within 30 days of the date of service and removal is timely in accordance with 28 U.S.C. § 1446(b)(1).

11. The plaintiff filed a jury demand when she filed her state court action.

12. True and correct copies of all of the process, pleadings, and orders from the Illinois state court action which have been served upon the defendant have been filed with this Notice of Removal pursuant to 28 U.S.C. §1446(a).

13. Defendant, XTRA, by counsel, will file a copy of this Notice of Removal in the Circuit Court of Lake County, Indiana and serve a copy of this Notice of Removal with all exhibits upon counsel for the plaintiff by United States mail pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, the defendant, XTRA LLC, hereby removes this action to the United States District Court for the Northern District of Indiana.

LIPE LYONS MURPHY NAHRSTADT & PONTIKIS LTD.

By: /s/ James H. Whalen

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